

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Burnt Prairie Post Office
Burnt Prairie, Illinois

Docket No. A2011-67

ORDER AFFIRMING DETERMINATION

(Issued December 27, 2011)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2011 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the Postal

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 8, 2011, Steven L. Whetstone (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Burnt Prairie post office in Burnt Prairie, Illinois.² The Final Determination to close the Burnt Prairie post office is affirmed.

II. PROCEDURAL HISTORY

On September 8, 2011, the Commission established Docket No. A2011-67 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On September 23, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination to close the Burnt Prairie post office.⁵

² Petition for Review received from Steven L. Whetstone regarding the Burnt Prairie, Illinois Post Office 62820, September 8, 2011 (Petition).

³ Notice and Order Accepting Appeal and Establishing Procedural Schedule (Order No. 851), September 13, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 23, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Burnt Prairie, Illinois Post Office and Extend Service by Rural Route Service (Final Determination). On October 24, 2011, the Postal Service filed round-date stamped versions of the Final Determination returned late from the local post offices as Item No. 49 of the Administrative Record and the Revised Letter regarding the community meeting inadvertently omitted from the submittal of the Administrative Record as Item 21, page 6. United States Postal Service Notice of Filing, October 24, 2011.

⁵ United States Postal Service Comments Regarding Appeal, October 24, 2011 (Postal Service Comments).

Petitioner filed a Participant Statement supporting his petition.⁶ On November 17, 2011, the Public Representative filed a reply brief.⁷

III. BACKGROUND

The Burnt Prairie post office provides retail postal services and service to 19 post office box customers. Final Determination at 2. The Burnt Prairie post office, an EAS-55 level facility, has retail access hours of 7:00 a.m. to 1:30 p.m., Monday through Friday, and 7:00 a.m. to 10:30 a.m. on Saturday. Lobby access hours are the same as retail access hours. *Id.*

The postmaster position became vacant on September 30, 2007 when the Burnt Prairie postmaster retired. A non-career postmaster relief (PMR) was installed to operate the office. Retail transactions average 13 retail customers for approximately 14 minutes of retail workload per day. There are also 76 intermediate rural boxes served. Office receipts for the past 3 years were \$8,890 in FY 2008; \$8,057 in FY 2009; and \$9,123 in FY 2010. There are no permit or postage meter customers. *Id.* By closing the Burnt Prairie post office, the Postal Service anticipates savings of \$32,464 annually. *Id.* at 8.

After the closure, retail services will be provided by the Mill Shoals post office, an EAS-11 level office located approximately five miles away.⁸ Delivery service will be provided by rural carrier through the Mill Shoals post office. The Mill Shoals post office is an EAS-11 level post office, with retail hours of 8:00 a.m. to 11:00 a.m. and 12:00 p.m. to 4:30 p.m., Monday through Friday, and 8:30 a.m. to 10:00 a.m. on Saturday. Eighty-one post office boxes are available at Mill Shoals. *Id.* The Postal Service will

⁶ Participant Statement received from Steven L. Whetstone October 11, 2011 (Participant Statement).

⁷ Reply Brief of the Public Representative, November 17, 2011 (PR Reply Brief).

⁸ *Id.* at 9. MapQuest estimates the driving distance between the Burnt Prairie and Mill Shoals post offices to be approximately 5.2 miles (8 minutes driving time).

continue to use the Burnt Prairie name and ZIP Code. Final Decision at 6, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Burnt Prairie post office. He makes four arguments against closing the Burnt Prairie post office: (1) that the estimated cost savings from the closing are inaccurate because they are based on the salary and benefits of a postmaster rather than the rural letter carrier who operates the post office. Participant Statement at 3; (2) the Postal Service made a procedural error by failing to give proper notification of the location and time of the required public meeting. *Id.*; (3) the Postal Service failed to consider that the Mill Shoals post office is also under consideration for closure. Participant Statement at 2; and (4) Petitioner invested in the Burnt Prairie community to start an e-commerce business and relies on the Burnt Prairie post office. Petition at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Burnt Prairie post office. Postal Service Comments at 16. The Postal Service believes the appeal raises three main issues: (1) whether there is an impact on effective and regular postal services to the community; (2) the effect of the closing on the community; and (3) is there economic savings expected to result from discontinuing the Burnt Prairie post office. *Id.* at 1.

The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes the determination to discontinue the Burnt Prairie post office should be affirmed. *Id.* at 15-16.

The Postal Service explains that its decision to close the Burnt Prairie post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);

- very little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Burnt Prairie community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Burnt Prairie community, economic savings, and effect on postal employees. *Id.* at 1-2.

Public Representative. The Public Representative states that the Administrative Record indicates that the Postal Service has addressed the requirements associated with post office closings and appeals, but in a perfunctory fashion. PR Reply Brief at 10. She argues that though the Final Determination appears procedurally in order, the fact that the Mill Shoals post office may be targeted for closing in the future requires a deeper evaluation of the impact of closing the Burnt Prairie post office. Specifically, she seeks to have an analysis of the closing's impact upon an e-commerce-based business and old-line companies. Thus, she recommends remanding this case. *Id.* at 10-11.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such

determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 14, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Burnt Prairie post office. Final Determination at 2. A total of 24 questionnaires were distributed and 15 were returned. On April 28, 2011, the Postal Service held a community meeting at the Burnt Prairie post office to address customer concerns. *Id.* The Postal Service acknowledges the initial notice of the meeting was erroneous, but says the notice was corrected and distributed to customers the next day. Postal Service Comments at 5. Thirty customers attended the community meeting. Final Determination at 2.

The Postal Service posted the proposal to close the Burnt Prairie post office with an invitation for public comment at the Burnt Prairie post office and the Mill Shoals post office from May 18, 2011 to July 19, 2011. The Final Determination was posted at the same post offices from August 20, 2011 through September 21, 2011. Administrative Record, Item No. 49, Final Determination posting cover sheet.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Burnt Prairie is an unincorporated community located in White County, Illinois. Final Determination at 6. The community is administered politically by the Burnt Prairie Village Board. Police protection is provided by the White County Sheriff. Fire protection is provided by the Fairfield Rural Fire Protection. The community is comprised of retirees, farmers, and those who may work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Burnt Prairie community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Burnt Prairie post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2.

Customers raised the issue of the effect of the closing on the Burnt Prairie community. *Id.* at 6. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Burnt Prairie name and ZIP Code. Postal Service Comments at 11-12. Petitioner and the Public Representative both note the importance of the community's local post office for Petitioner's e-commerce business. *Id.* at 11; Public Representative at 1-2. The Postal Service argues that the effect on the business community generally was considered by

the Postal Service as reflected in the Final Determination. Postal Service Comments at 11. The Postal Service acknowledges that businesses require regular and effective postal service; however, it asserts that the services will be provided to the Burnt Prairie community through the rural carrier and retail counter of the Mill Shoals post office. *Id.* at 11-12.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the postmaster of the Burnt Prairie post office retired on September 30, 2007, and that an OIC has operated the Burnt Prairie post office since then. *Id.* at 2; Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. Postal Service Comments at 2; Final Determination at 7.

The Postal Service has considered the possible effects of the post office closing on the OIC when it stated that the OIC may be reassigned or separated. The Postal Service has satisfied its obligation to consider the effect of the closing on employees at the Burnt Prairie post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Burnt Prairie customers. Postal Service Comments at 3, 5. It asserts that customers of the closed Burnt Prairie post office may obtain retail services at the Mill Shoals post office located approximately 5 miles away. Final Determination at 2. Curbside delivery to rural boxes or cluster box units (CBUs) at the customers' 911 assigned address will be provided by rural carrier through the Mill Shoals post office. *Id.* at 4, Concern No. 8; Postal Service Comments at 7, 9-10. The Burnt Prairie post office box customers may obtain Post Office Box service at the Mill Shoals post office, which has 81 boxes available. *Id.*

Petitioner argues that the Mill Shoals post office will not provide the Burnt Prairie community with services that enable international shipping. Participant Statement at 2. The Postal Service contends that Burnt Prairie customers will continue to receive

regular and effective service, including for outgoing packages and incoming mail, via rural route delivery and nearby post office locations upon the closure of the Burnt Prairie post office. Postal Service comments at 10.

For customers choosing not to travel to the Mill Shoals post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. For special services such as certified, registered, Express Mail, delivery confirmation, signature confirmation, and COD, the Postal Service notes they may be handled by the carrier by leaving a note in the mailbox, along with the appropriate payment. The carrier can provide the services that day and leave a customer receipt in the mailbox on the next delivery day. *Id.*

Customers may also print their own postage with tracking and insurance at *usps.com*, and have the carrier pick up the packages or other items. *Id.* Stamps by Mail and Money Order Application forms are available for customer convenience. Through the Stamps by Mail program, customers have the ability to purchase stamps, envelopes, and postal cards by addressing the postage paid order form, enclosing payment by personal check or money order, and mailing it or leaving it in their mailbox for carrier pick up. *Id.*

Petitioner expresses concerns about potential theft from leaving packages in a mailbox for the rural carrier when purchasing due to their high value. Petition at 1. Customers less than one-half mile from the carrier's line of travel, accountable items and large parcels will be delivered to the customer's residence. Postal Service Comments at 9. Mailboxes may be locked and CBUs include individually locked mail compartments and parcel lockers. *Id.* at 9-10. In addition, there has been no reported vandalism or thefts recently in the Burnt Prairie post office. Administrative Record, Item No. 15 at 1.

Based upon information in a newspaper article attached to the Petition, the Petitioner raises a concern that the Mill Shoals post office is also under review for

closure.⁹ The Postal Service indicates the Mill Shoals post office is being studied, but that there has been no written proposal to close that location. If there is a proposal to close that post office, customers of Burnt Prairie would be given notice and opportunity to comment before a final determination is made. Postal Service Comments at 8.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$32,464. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,740) and annual lease costs (\$3,450), minus the cost of replacement service (\$1,726). *Id.*

Petitioner disputes the validity of the Postal Service's annual savings estimate because the Postal Service used a postmaster's salary rather than that of a temporary employee. He asserts that the estimated savings are inaccurate because the Postal Service did not consider the salary of the rural letter carrier currently in the position. Participant Statement at 3. He notes that the amounts saved are based on the salary and benefits of a postmaster rather than the OIC who receives a lower salary and no fringe benefits. *Id.* The Postal Service responds that discontinuing the Burnt Prairie post office would eliminate a permanent career position thereby allowing the Postal Service to avoid the cost of filling that position in the future. Postal Service Comments at 13.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Burnt Prairie postmaster retired on September 30, 2007. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be

⁹ The article appeared in the September 19, 2011 edition of the Wayne County Press in Fairfield, Illinois. The complete article was filed with the Commission by the Petitioner and is in a hard copy file associated with this docket. PR Brief at 7.

eliminated. See Postal Service Comments at 13 (“[t]he Postal Service used the minimum salary and benefit cost for a career postmaster based on the fact that if this discontinuance action were not being undertaken, a career postmaster would have eventually been assigned to the currently vacant position.”). Furthermore, notwithstanding that the Burnt Prairie post office has been staffed by an OIC for over 4 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

Based upon its review of the record, the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service’s determination to close the Burnt Prairie post office is affirmed.

It is ordered:

The Postal Service’s determination to close the Burnt Prairie, Illinois post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

I dissent in this case.

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

The record states that revenue at the post office increased more than 12 percent from 2009 to 2010, indicating potential for growth from area businesses. That growing revenue would be potentially lost by closing the facility. This bolsters the Petitioner's argument that the Postal Service did not adequately consider the impact on the community.

The Commission has just issued its Advisory Opinion in Docket No. N2011-1, pointing to the fact that its closing plans do not optimize the network. In the case of Burnt Prairie, the failure to undertake actual retail network optimization is exhibited by the Service selecting for closure a post office with strong revenue, and presenting the community with the option of a receiving office that might also close. This proposed closing should be reconsidered.

Moreover, the Postal Service recently announced a moratorium on post office closings.

It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a five month moratorium.

The citizens of Burnt Prairie, Illinois and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF COMMISSIONER LANGLEY

The Postal Service did not adequately comply with 39 U.S.C. § 404(d)(1) which requires that prior to making a determination to close any post office the Postal Service must provide notice of its intent to those served by the retail facility to ensure they have an opportunity to present their views. Under section 243 of the Postal Service's Handbook PO-101, August 2004, if a decision is made to continue proceeding with a discontinuance investigation, the manager, Operations, must "then develop a questionnaire and send it to customers for additional information and comments."

The Burnt Prairie post office provides service to 19 post office box holders and 76 delivery customers. Final Determination at 2. However, the Final Determination states that "24 questionnaires were distributed to delivery customers of the Burnt Prairie post office." *id.* It appears that 71 customers were not sent the questionnaire, thereby denying them the opportunity to offer their views.

Furthermore, the Postal Service also did not adequately consider the effects on the community and whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post office are not self-sustaining" as required by 39 U.S.C. § 404(d)(2)(A)(i) and (iii).

The Administrative Record indicates that the proposed administrative post office will be Mill Shoals, which is currently being considered for discontinuance under the Retail Access Optimization Initiative (RAOI). I disagree with the Postal Service that the inclusion in the RAOI of the Mill Shoals will not significantly impact the Burnt Prairie customers. Postal Service Comments at 8. As I have stated previously in A2011-47, the Postal Service should include within its discontinuance process a mechanism to ensure that due consideration is given to the impact on the community of the receiving administrative post office immediately being reviewed for discontinuance.

Moreover, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since September 2007, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. In addition, in FY 2010, the Burnt Prairie post office realized a 13.23 percent increase in revenues over FY 2009. Although the Postal Service determines how it will allocate its resources across its network, I believe that a retail postal facility that may be profitable and that is increasing revenues is an important asset. This is especially true at a time when the Postal Service is facing significant financial shortfalls.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings; that the effects on the community are adequately considered; and that the community will continue to receive a maximum degree of effective and regular postal services. In addition, the Postal Service should include within its discontinuance process a mechanism to ensure that due consideration is given to the impact on the community of the receiving administrative post office immediately being reviewed for discontinuance.

I find that the Postal Service's decision to discontinue operations at the Burnt Prairie post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley